BEFORE THE MEDICAL BOARD OF CALIFORNIA **DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA**

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) File No. 800-2016-026742
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DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 4, 2017.

IT IS SO ORDERED July 7, 2017.

MEDICAL BOARD OF CALIFORNIA

Michelle Anne Bholat, M.D., Chair

Panel B

XAVIER BECERRA Attorney General of California 2 JANE ZACK SIMON Supervising Deputy Attorney General 3 CAROLYNE EVANS (State Bar No. 289206) Deputy Attorney General 4 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 5 Telephone: (415) 703-1211 Facsimile: (415) 703-5480 6 Attorneys for Complainant 7 BEFORE THE 8 MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS 9 STATE OF CALIFORNIA 10 11 In the Matter of the Accusation Against Case No. 800-2016-026742 12 JANARDHANA PENAGALURU REDDY, STIPULATED SETTLEMENT AND DISCIPLINARY ORDER 400 SE 1ST STREET, SUITE B 13 **MINERAL WELLS, TX 76067** 14 Physician's and Surgeon's Certificate 15 No. A24449 16 Respondent. 17 18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the aboveentitled proceedings that the following matters are true: 19 20 **PARTIES** Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board 21 1. 22 of California (Board). She brought this action solely in her official capacity and is represented in 23 this matter by Xavier Becerra, Attorney General of the State of California, by Carolyne Evans and 24 Brenda P. Reyes, Deputy Attorneys General. 25 Respondent Janardhana Penagaluru Reddy, M.D. (Respondent) is represented in this 2. proceeding by attorney Tom Garberson, of the firm Low McKinley Baleria & Salenko, LLP, 26 whose address is: 2150 River Plaza Dr., Suite 250, Sacramento, California 95833. 27 28 ///

3. On or about November 28, 1988, the Board issued Physician's and Surgeon's Certificate No. A24449 to Janardhana Penagaluru Reddy, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-026742, and will expire on July 31, 2018, unless renewed.

JURISDICTION

- 4. Accusation No. 800-2016-026742 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 22, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.
- 5. A copy of Accusation No. 800-2016-026742 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-026742. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. This stipulation is the result of a compromise between the Board and Respondent.
Respondent understands and agrees that the charges and allegations in Accusation No. 800-2016-

026742, if proven at hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent stipulates that the Board has jurisdiction to impose a public reprimand upon his certificate to practice medicine pursuant to section 2227 of the Business and Professions Code. Respondent agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

- 11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

A. <u>PUBLIC REPRIMAND</u>

IT IS HEREBY ORDERED that Respondent Janardhana Penagaluru Reddy, M.D., Physician's and Surgeon's Certificate No. A24449, shall be and hereby is publically reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This

public reprimand which is issued in connection with Respondent's unprofessional conduct, as set forth in Accusation No. 800-2016-026742, is as follows: On or about August 26, 2016, the Texas Medical Board issued an Agreed Order (Texas Order). The Texas Order found that Respondent engaged in unprofessional conduct in that his care fell below the standard of care in performing a thoracotomy for a patient. Specifically, Respondent violated the standard of care in that he did not fully discuss the risks to the patient of proceeding with surgery and he failed to document both the patient's understanding that surgery could leave the patient unable to breathe without assistance and the patient's decline of other options such as chemotherapy. As a result of the unprofessional conduct, the Texas Board ordered that Respondent enroll and successfully complete eight (8) hours of continuing medical education (CME) in medical recordkeeping, and at least eight (8) hours of CME in pulmonary masses and indications for and against surgical intervention, approved for Category I credits by the American Medical Association, approved in writing in advance by the Executive Director or their designee. These CME requirements were in addition to all other CME required for licensure maintenance.

B. <u>EDUCATION COURSE</u>

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval an educational program or course related to the evaluation and treatment of lung cancer and/or other pulmonary masses. The educational program or course shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program or course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of the program or course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance in the course or seminar in satisfaction of this condition and of the hours of CME credit received. Respondent shall participate in and successfully complete the program or course not later than six (6) months after Respondent's initial enrollment.

1	Failure to successfully complete the educational program or course outlined above shall		
2	constitute unprofessional conduct and grounds for further disciplinary action.		
3	ACCEPTANCE		
4	I have carefully read the above Stipulated Settlement and Disciplinary Order and have full		
5	discussed it with my attorney Tom Garberson. I understand the stipulation and the effect it will		
6	have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and		
7	Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the		
8	Decision and Order of the Medical Board of California.		
9 10	DATED: Leady M. J. Janardhana Penagaluru Reddy, M.J.		
11	JANARDHANA PENAGALURU REDDY, M.D. Respondent		
12			
13	I have read and fully discussed with Respondent Janardhana Penagaluru Reddy, M.D. the		
14	terms and conditions and other matters contained in the above Stipulated Settlement and		
15	Disciplinary Order. I approve its form and content.		
16			
17	DATED: 4/27/17		
18	TOM GARBERSON, ESQ. Attorney for Respondent		
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ENDORSEMENT The foregoing Stipulated Settlement and Disciplinary

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Datad

May 5, 2017

XAVIER BECERRA Attorney General of California JANE ZACK SIMON

Supervising Deputy Attorney General

CAROLYNE EVANS
Deputy Attorneys for Complainant

Exhibit A

Accusation No. 800-2016-026742

FILED STATE OF CALIFORNIA 1 MEDICAL BOARD OF CALIFORNIA KAMALA D. HARRIS SACRAMENTO NOV >> 20 14 Attorney General of California 2 JANE ZACK SIMON BY D. Richards Supervising Deputy Attorney General 3 CAROLYNE EVANS Deputy Attorney General 4 State Bar No. 289206 455 Golden Gate Avenue, Suite 11000 5 San Francisco, CA 94102-7004 Telephone: (415) 703-1211 6 Facsimile: (415) 703-5480 Attorneys for Complainant 7 BEFORE THE 8 MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS 9 STATE OF CALIFORNIA 10 Case No. 800-2016-026742 In the Matter of the Accusation Against: 11 Janardhana Penagaluru Reddy, M.D. ACCUSATION 12 400 SE 1st Street, Suite B Mineral Wells, TX 76067 13 Physician's and Surgeon's Certificate 14 No. A24449, 15 Respondent. 16 17 Complainant alleges: 18 **PARTIES** 19 Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer 20 21 Affairs (Board). 22 2. On or about November 28, 1988, the Medical Board issued Physician's and Surgeon's 23 Certificate Number A24449 to Janardhana Penagaluru Reddy, M.D. (Respondent). The 24 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the 25 charges brought herein and will expire on July 31, 2018, unless renewed. **JURISDICTION** 26 27 3. This Accusation is brought before the Board, under the authority of the following 28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

22.

- 4. Section 2227 of the Code provides, in part, that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.
- 5. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.
 - 6. Section 141 of the Code states:
- "(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.
- "(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

7. On or about, August 26, 2016, the Texas Medical Board issued an Agreed Order (Texas Order). The Texas Order found that Respondent engaged in unprofessional conduct in that his care fell below the standard of care in performing a thoracotomy for a patient. Specifically, Respondent violated the standard of care in that he did not fully discuss the risks to the patient of proceeding with surgery and he failed to document both the patient's understanding

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EXHIBIT A



Texas Medical Board

Mailing Address: P.O. Box 2018 • Austin, Tx 78768-2018 Phone (512) 305-7010

PUBLIC PHYSICIAN VERIFICATION AS OF 10/13/2016

NAME

REDDY, JANARDHANA PENAGALURU, MD

LIC#

ID NUM 55122 ISSUE DATE 12/11/1972

EXPIRATION DATE 02/28/2018
BIRTH DATE 1940

BIRTH DATE 1940

BIRTH PLACE INDIA

REGISTRATION STATUS ACTIVE

REGISTRATION STATUS DATE 01/01/1978

DISCIPLINARY STATUS UNDER BOARD ORDER

DISCIPLINARY STATUS DATE 08/26/2016

LICENSE STATUS

MEDICAL SCHOOL

LICENSE STATUS DATE

GUNTUR MED COLL, UNIV OF HLTH SCI, GUNTUR, ANDHRA

PRADESH, INDIA

E5310

GRADUATION YEAR 1963

LICENSURE METHOD ENDORSEMENT WITH CALIFORNIA

PRIMARY SPECIALTY THORACIC SURGERY SECONDARY SPECIALTY VASCULAR SURGERY

MAILING ADDRESS 400 S E 1ST STREET SUITE B

MINERAL WELLS, TX 76067

PRIMARY PRACTICE SITE 400 SE 1ST STREET SUITE B

MINERAL WELLS, TX 76067

HIATE, OF TEXAS

ssistant custodian of records for the Texas Medical Board and that this is a true and correct Copy of the original, as a appears on file in this office.

Witness my official hand and seal of the Board

onis 13th, day of October, 201

Assistant Custodian of Records

DISCIPLINARY/LICENSURE RESTRICTIONS INFORMATION SHEET

TEXAS MEDICAL BOARD

10/13/2016

LICENSE NUMBER: E5310

REDDY, JANARDHANA PENAGALURU, MD

CURRENT INFORMATION (PHYSICIAN):

REGISTRATION DATE/STATUS: 01/01/1978 ACTIVE

DISCIPLINARY DATE/STATUS: 08/26/2016 UNDER BOARD ORDER

LICENSURE DATE/STATUS:

ON AUGUST 26, 2016, THE BOARD AND JANARDHANA REDDY, M.D., ENTERED INTO AN AGREED ORDER REQUIRING HIM TO WITHIN ONE YEAR COMPLETE AT LEAST EIGHT HOURS OF CME IN MEDICAL RECORDKEEPING. THE BOARD FOUND DR. REDDY VIOLATED THE STANDARD OF CARE IN THAT HE DID NOT FULLY DISCUSS THE RISKS TO THE PATIENT OF PROCEEDING WITH SURGERY AND FAILED TO DOCUMENT THE PATIENT'S UNDERSTANDING OF THE RISKS.

To review a copy of the Board Order(s), go to http://www.tmb.state.tx.us/agency/professionalinfo.htm

and search the TMB Public Web Based Verification database for this individual. Once located, the record will provide a link to view the Board Order(s). Alternatively, you may submit a written request to the Texas Medical Board at the following address. For orders of 50 pages or more, a charge of .10 per page will be billed.

Following address. For orders of 50 pages or more, a charge of .10 per page will be billed

Texas Medical Board
Public Information Department, MC-251
P.O. Box 2018
Austin, TX 78768-2018
FAX: 512-463-9416

Board action information is updated on our computer system within 2 weeks following the board meeting at which the action was taken. To see the current board meeting schedule, please visit our web site at www.tmb.state.tx.us

Board action is not final until the appeals process is exhausted. The above-noted disciplinary status will indicate when the appeal process is complete.

LICENSE NO. E5310

IN THE MATTER OF

BEFORE THE

THE LICENSE OF

JANARDHANA REDDY, M.D.

TEXAS MEDICAL BOARD

AGREED ORDER

On the <u>Alo</u> day of <u>August</u>, 2016, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Janardhana Reddy M.D. (Respondent).

On January 11, 2016, Respondent appeared in person, with counsel James Stouffer at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives were Margaret McNeese, M.D., a member of the Board, and Michael Cokinos, a member of a District Review Committee (Panel). Amy Swanholm represented Board staff.

BOARD CHARGES

Board Staff alleged that Respondent fell below the standard of care in performing a thoracotomy for the patient.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds the following:

General Findings:

- a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act) or the Rules of the Board.
- b. Respondent currently holds Texas Medical License No. E5310. Respondent was originally issued this license to practice medicine in Texas on December 17, 1972.
- c. Respondent is primarily engaged in the practice of thoracic and vascular surgery.

 Respondent is board certified by the American Board of Surgery and the American Board of Thoracic Surgery, members of the American Board of Medical Specialties.
- d. Respondent is 76 years of age.

2. Specific Panel Findings:

- a. Respondent violated the standard of care in that he did not fully discuss the risks to the patient of proceeding with surgery.
- b. Respondent failed to document the patient's understanding that surgery could leave the patient unable to breathe without assistance and the patient's decline of other options such as chemotherapy.

3. Mitigating Factors:

- a. In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:
 - i. Respondent has no prior Board History.
 - ii. The Panel acknowledged that this was a complicated patient.
 - iii. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.
 - iv. Respondent stated at the ISC that he no longer performs thoracic surgery.

CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

- 1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
- 2. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a rule adopted under this Act, specifically Board Rules 165.1(a), failure to maintain an adequate medical record;
- 3. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care; 190.8(1)(C), failure to use proper diligence in one's professional practice; 190.8(1)(D), failure to safeguard against potential complications;
- 4. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.
- 5. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
- 6. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

<u>ORDER</u>

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least eight (8) hours of continuing medical education ("CME") in medical recordkeeping, and at least eight (8) hours of CME in pulmonary masses and indications for and against surgical intervention, approved for Category I credits by the American Medical Association, approved in writing in advance by the Executive Director or their designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance

Department information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Department on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

- 2. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery, that the Order was delivered to all such facilities.
- 3. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.
- 4. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.
- 5. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary

action. Respondent waives the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days' notice, as provided in 22 Texas Administrative Code §187.44(4).

- 6. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.
- 7. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.
- 8. This Order shall automatically terminate upon Respondent's submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered in Ordering Paragraph No. 1 and 2.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

(SIGNATURE PAGES FOLLOW)

I, JANARDHANA REDDY, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: U 22	, 2016.
	JANARDHANA REDDY, M.D. Respondent
STATE OF TEXAS COUNTY OF PALS PINES	\$ \$ \$
SWORN TO AND ACKNOWLEDGE <u>32</u> day of <u>Hugust</u>	D BEFORE ME, the undersigned Notary Public, on this_, 2016.
SANDRA L MIDKIFF Netary ID # 5336987 We Epimmission Expires March 20, 2019	Signature of Notary Public Signature of Notary Public

Witness my official hand and seal of the BOARD.

appears on the file in this office.